

Office of the Secretary, DOT

§ 382.3

382.85 What seating accommodations must carriers make to passengers in circumstances not covered by §382.81 (a) through (d)?

382.87 What other requirements pertain to seating for passengers with a disability?

Subpart G—Boarding, Deplaning, and Connecting Assistance

382.91 What assistance must carriers provide to passengers with a disability in moving within the terminal?

382.93 Must carriers offer preboarding to passengers with a disability?

382.95 What are carriers' general obligations with respect to boarding and deplaning assistance?

382.97 To which aircraft does the requirement to provide boarding and deplaning assistance through the use of lifts apply?

382.99 What agreements must carriers have with the airports they serve?

382.101 What other boarding and deplaning assistance must carriers provide?

382.103 May a carrier leave a passenger unattended in a wheelchair or other device?

382.105 What is the responsibility of carriers at foreign airports at which airport operators have responsibility for enplaning, deplaning, and connecting assistance?

Subpart H—Services on Aircraft

382.111 What services must carriers provide to passengers with a disability on board the aircraft?

382.113 What services are carriers not required to provide to passengers with a disability on board the aircraft?

382.115 What requirements apply to on-board safety briefings?

382.117 Must carriers permit passengers with a disability to travel with service animals?

382.119 What information must carriers give individuals with vision or hearing impairment on aircraft?

Subpart I—Stowage of Wheelchairs, Other Mobility Aids, and Other Assistive Devices

382.121 What mobility aids and other assistive devices may passengers with a disability bring into the aircraft cabin?

382.123 What are the requirements concerning priority cabin stowage for wheelchairs and other assistive devices?

382.125 What procedures do carriers follow when wheelchairs, other mobility aids, and other assistive devices must be stowed in the cargo compartment?

382.127 What procedures apply to stowage of battery-powered mobility aids?

382.129 What other requirements apply when passengers' wheelchairs, other mobility

aids, and other assistive devices must be disassembled for stowage?

382.131 Do baggage liability limits apply to mobility aids and other assistive devices?

382.133 What are the requirements concerning the evaluation and use of passenger-supplied electronic devices that assist passengers with respiration in the cabin during flight?

Subpart J—Training and Administrative Provisions

382.141 What training are carriers required to provide for their personnel?

382.143 When must carriers complete training for their personnel?

382.145 What records concerning training must carriers retain?

Subpart K—Complaints and Enforcement Procedures

382.151 What are the requirements for providing Complaints Resolution Officials?

382.153 What actions do CROs take on complaints?

382.155 How must carriers respond to written complaints?

382.157 What are carriers' obligations for recordkeeping and reporting on disability-related complaints?

382.159 How are complaints filed with DOT?

APPENDIX A TO PART 382—REPORT OF DISABILITY-RELATED COMPLAINT DATA

APPENDIX B TO PART 382—CROSS-REFERENCE TABLE

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SOURCE: Docket OST-2004-19482, 73 FR 27665, May 13, 2008, unless otherwise noted.

Subpart A—General Provisions

§ 382.1 What is the purpose of this part?

The purpose of this part is to carry out the Air Carrier Access Act of 1986, as amended. This rule prohibits both U.S. and foreign carriers from discriminating against passengers on the basis of disability; requires carriers to make aircraft, other facilities, and services accessible; and requires carriers to take steps to accommodate passengers with a disability.

§ 382.3 What do the terms in this rule mean?

In this regulation, the terms listed in this section have the following meanings:

Air Carrier Access Act or ACAA means the Air Carrier Access Act of 1986, as

amended, the statute that provides the principal authority for this part.

Air transportation means interstate or foreign air transportation, or the transportation of mail by aircraft, as defined in 49 U.S.C. 40102.

Assistive device means any piece of equipment that assists a passenger with a disability to cope with the effects of his or her disability. Such devices are intended to assist a passenger with a disability to hear, see, communicate, maneuver, or perform other functions of daily life, and may include medical devices and medications.

Battery-powered mobility aid means an assistive device that is used by individuals with mobility impairments such a wheelchair, a scooter, or a Segway when it is used as a mobility device by a person with a mobility-related disability.

Carrier means a U.S. citizen (“U.S. carrier”) or foreign citizen (“foreign carrier”) that undertakes, directly or indirectly, or by a lease or any other arrangement, to engage in air transportation.

Commuter carrier means an air taxi operator as defined in 14 CFR part 298 that carries passengers on at least 5 round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week and places between which those flights are performed.

CPAP machine means a continuous positive airway pressure machine.

Department or DOT means the United States Department of Transportation.

Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

Equivalent alternative means a policy, practice, or other accommodation that provides substantially equivalent accessibility to passengers with disabilities, compared to compliance with a provision of this Part.

Expected maximum flight duration means the carrier’s best estimate of the total duration of the flight from departure gate to arrival gate, including taxi time to and from the terminals, based on the scheduled flight time

and factors such as (a) wind and other weather conditions forecast; (b) anticipated traffic delays; (c) one instrument approach and possible missed approach at destination; and (d) any other conditions that may delay arrival of the aircraft at the destination gate.

FAA means the Federal Aviation Administration, an operating administration of the Department of Transportation.

Facility means a carrier’s aircraft and any portion of an airport that a carrier owns, leases, or controls (e.g., structures, roads, walks, parking lots, ticketing areas, baggage drop-off and retrieval sites, gates, other boarding locations, loading bridges) normally used by passengers or other members of the public.

High-contrast captioning means captioning that is at least as easy to read as white letters on a consistent black background.

Indirect carrier means a person not directly involved in the operation of an aircraft who sells air transportation services to the general public other than as an authorized agent of a carrier.

Individual with a disability means any individual who has a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(a) *Physical or mental impairment* means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardio-vascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term *physical or mental impairment* includes, but is not limited to,

such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) *Has a record of such impairment* means has a history of, or has been classified, or misclassified, as having a mental or physical impairment that substantially limits one or more major life activities.

(d) *Is regarded as having an impairment* means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by an air carrier as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(3) Has none of the impairments set forth in this definition but is treated by an air carrier as having such an impairment.

On-demand air taxi means an air taxi operator that carries passengers or property and is not a commuter carrier as defined in this section.

PHMSA means the Pipeline and Hazardous Materials Safety Administration, an operating administration of the Department of Transportation.

POC means portable oxygen concentrator.

Qualified individual with a disability means an individual with a disability—

(a) Who, as a passenger (referred to as a “passenger with a disability”),

(1) With respect to obtaining a ticket for air transportation on a carrier, offers, or makes a good faith attempt to offer, to purchase or otherwise validly to obtain such a ticket;

(2) With respect to obtaining air transportation, or other services or accommodations required by this Part,

(i) Buys or otherwise validly obtains, or makes a good faith effort to obtain, a ticket for air transportation on a car-

rier and presents himself or herself at the airport for the purpose of traveling on the flight to which the ticket pertains; and

(ii) Meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers; or

(b) Who, with respect to accompanying or meeting a traveler, using ground transportation, using terminal facilities, or obtaining information about schedules, fares, reservations, or policies, takes those actions necessary to use facilities or services offered by an air carrier to the general public, with reasonable accommodations, as needed, provided by the carrier.

Scheduled service means any flight scheduled in the current edition of the Official Airline Guide, the carrier's published schedule, or the computer reservation system used by the carrier.

TSA means the Transportation Security Administration, an agency of the Department of Homeland Security.

United States or U.S. means the United States of America, including its territories and possessions.

§ 382.5 When are U.S. and foreign carriers required to begin complying with the provisions of this part?

As a U.S. or foreign carrier, you are required to comply with the requirements of this part on May 13, 2009, except as otherwise provided in individual sections of this part.

§ 382.7 To whom do the provisions of this part apply?

(a) If you are a U.S. carrier, this part applies to you with respect to all your operations and aircraft, regardless of where your operations take place, except as otherwise provided in this part.

(b) If you are a foreign carrier, this part applies to you only with respect to flights you operate that begin or end at a U.S. airport and to aircraft used for these flights. For purposes of this Part, a “flight” means a continuous journey in the same aircraft or with one flight number that begins or ends at a U.S. airport. The following are some examples of the application of this term:

Example 1 to paragraph (b): A passenger books a nonstop flight on a foreign carrier from New York to Frankfurt, or Frankfurt